

HONORABLE JAMES L. ROBART

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON

KATHRYN LISTER, an individual,

Plaintiff,

v.

HYATT CORPORATION, a Delaware
corporation d/b/a HYATT REGENCY
BELLEVUE,

Defendant.

No. 2:18-CV-00961-JLR

PRETRIAL ORDER

JURISDICTION

Jurisdiction is vested in this Court by virtue of 28 U.S.C. § 1441(a) and 28 U.S.C. § 1332(a)(1).

CLAIMS AND DEFENSES

The Plaintiff will pursue at trial the following claims:

1. Negligence.

The Defendant will pursue the following claims and/or affirmative defenses at trial:

1. Comparative negligence by the Plaintiff;
2. Allocation to all at-fault entities, including parties and non-parties, per RCW

4.22.070;

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1 3. Plaintiff's complaints and damages were caused by unrelated pre-existing or
2 subsequent conditions for which Defendant is not legally responsible;
3

4 4. Plaintiff's damages were caused by unavoidable consequences, acts, or omissions
5 beyond the direction, supervision, or control of the Defendant.

6 **ADMITTED FACTS**

7 1. Defendant Hyatt Corporation owns the Hyatt Regency Bellevue located in Bellevue
8 Place, which is a mixed-use project located in downtown Bellevue.

9 2. In addition to the Hyatt Regency Bellevue, a number of other businesses are located
10 in Bellevue Place, including the 13 Coins Restaurant ("13 Coins").
11

12 3. On June 15, 2017, Plaintiff Kathryn Lister went to 13 Coins for coffee and dessert
13 with her family.

14 4. Lister arrived at 13 Coins restaurant shortly before 11:25pm.

15 5. Shortly after arriving at 13 Coins, Lister needed to use the restroom.

16 6. Lister exited 13 Coins through open double doors to enter the Hyatt lobby to use the
17 restroom which was located in the lobby of the Hyatt hotel.

18 7. Lister walked through the lobby towards the restrooms.
19

20 8. At 11:55 p.m., Lister rounded a corner to enter the restroom area, and lost her balance
21 in what she describes as vomit, fell to the floor and was injured.

22 9. Lister fractured her left hip when she fell.

23 10. Lister's injury required a surgical repair.

24 11. Between 11:30 pm and midnight on June 15, 2017, the following employees of
25 Defendant Hyatt Corporation were on duty at the front desk in the lobby of the Hyatt Hotel: assistant
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1 management trainee Roxanne Taggart-Hugo, night auditor Jaeson Bloom, and night auditor Daniel
2 Ruegel.
3

4 12. The shift of Hyatt Regency Bellevue housekeeping staff ends at 11:30 p.m.

5 13. Between 11:30 p.m. and midnight on June 15, 2017, no housekeeping staff were on
6 duty at the Hyatt Regency Bellevue.

7 14. Between 11:30 p.m. and midnight on June 15, 2017, no luggage porters were on duty
8 at the Hyatt Regency Bellevue.

9 15. At 12:00 a.m. on June 16, 2017, the shift of the overnight cleaning staff started at the
10 Hyatt Regency Bellevue.
11

12 16. On the night of June 15, 2017, Kyle Crandall was employed as a security officer by
13 Kemper Freeman Properties. Kemper Freeman Properties provided security services for Bellevue
14 Place which includes the Hyatt hotel.

15 17. Kemper Freeman Properties has security cameras which survey the lobby of the
16 hotel. The video which has been retained starts at 11:25 p.m. and ends at 12:02 a.m.

17 18. In the security video Mr. Crandall is seen walking through the lobby of the Hyatt
18 Regency Bellevue twice prior to Lister's injury. The first time was 23:36:43 and the second time
19 was 23:41:50.
20

21 19. In the security video Mr. Crandall is seen walking through the lobby of the Hyatt
22 Regency Bellevue a third time after Lister was injured. This took place at 23:59:02.

23 20. Mr. Crandall stepped in what he described as vomit after Ms. Lister's fall.

24 21. The security video shows Hyatt employee Jaeson Bloom walking through the lobby
25 at 23:54:51 as Lister entered the lobby area.
26



1 22. After Lister was injured, security officer Crandall took a statement from Lister and
2 completed an incident report.
3

4 23. The Court has ruled that Lister's status was a public invitee while on the premises
5 of the Hyatt even though she was a guest of 13 Coins.

6 **ISSUES OF LAW**

- 7 1. Did the person who vomited on the floor in the Hyatt's lobby owe a legal duty to
8 Lister.
9 2. Any additional pretrial motions and motions in limine.
10 3. Evidentiary rulings at trial.
11 4. Rulings on proposed jury instructions.
12

13 **EXPERT WITNESSES**

14 (a) Each party shall be limited to expert witness on the issues of.

15 (b) The name(s) and address of the expert witness(es) to be used by each party at trial and the
16 issue upon which each will testify if:

17
18 (1) On behalf of Plaintiff:

19 Theodore J. Becker, Ph.D. (will testify)
20 11627 Airport Road, Suite H
21 Everett, WA 98204

22 Dr. Becker is an expert in human performance/physical capacity/disability evaluation. Dr.
23 Becker has performed a functional capacity examination on Plaintiff and will be called to testify
24 regarding this evaluation.
25

Joellen Gill (will testify)
10501 South Lambs Lane
Mica, Washington 99023

Ms. Gill is a human factors expert. Ms. Gill will testify that, in her professional opinion, contaminant on the floor outside the restroom at the Hyatt created a functionally hidden hazardous condition which was the underlying cause of Plaintiff's fall, that Plaintiff's actions or inactions were consistent with foreseeable human behavior, ^{and} that Plaintiff was not at fault, ^{Ms. Gill may testify} ~~and that~~ the Hyatt's failure to have or follow an effective safety and risk management program was the cause of the hazardous condition which caused Plaintiff to fall, ^{after qualification to the court.}

James Pritchett, MD (will testify)
12911 120th Avenue NE, Suite H-210
Kirkland, WA 98034

Dr. Pritchett is Plaintiff's expert orthopedic surgeon. Dr. Pritchett will testify regarding the nature and extent of Plaintiff's injuries, including but not limited to, his opinion that Plaintiff suffers a 40 percent disability rating in her hip, now walks with a permanent limp, and should use a cane to prevent further falls. He will testify that the injuries Plaintiff suffered in the fall at the Hyatt caused Plaintiff to become a fall risk and are the cause of the falls Plaintiff has suffered since the incident, including the fall that injured Plaintiff's rotator cuff.

(2) On behalf of Defendant:

Scott Reed, Ph.D. (will testify)
Exponent
15375 SE 30th Place, Ste. 250
Bellevue, WA 98007
425-519-8700

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1 Dr. Reed is expected to testify to his findings about the risk, or absence thereof, of vomit on
2 the floor on the Hyatt and to rebut the opinions offered by Plaintiff's expert Gill.
3

4 Theresa McFarland, MD (will testify)
5 c/o Northwest Medical Experts
6 600 University St., Ste. 2325
7 Seattle, WA 98101
8 206-926-3756

9 Dr. McFarland is expected to testify to her opinions regarding the nature and extent of the
10 Plaintiff's injuries, and whether Plaintiff is at risk of future fall injuries. Dr. McFarland is expected
11 to rebut opinions offered by Plaintiff's experts regarding the Plaintiff's injuries and medical
12 treatment.

13 OTHER WITNESSES

14 The names and addresses of witnesses, other than experts, to be used by each party at the
15 time of trial and the general nature of the testimony of each are:

16 (a) On behalf of Plaintiff:

17 Kathryn Lister (will testify)
18 c/o Maxwell Graham, PS
19 535 E Sunset Way
20 Issaquah, WA 98027

21 Ms. Lister is the Plaintiff in this matter and will testify regarding her knowledge the
22 events in question, her understanding of her injuries, and the impact that said injuries have had
23 upon her.

24 Azzeddine Mouhoub (will testify)
25 c/o Maxwell Graham, PS
26 535 E Sunset Way
Issaquah, WA 98027



1 Mr. Mouhoub is the husband of Plaintiff Kathryn Lister. Mr. Mouhoub will testify
2 regarding his knowledge of the events in question and the effects the injuries suffered by Plaintiff
3 have had upon her.
4

5 Sione Lister (will testify)
6 c/o Maxwell Graham, PS
7 535 E Sunset Way
8 Issaquah, WA 98027

9 Ms. Lister is the daughter of Plaintiff. Ms. Lister will testify regarding her knowledge of
10 the events in question, and the effects the injuries suffered by Plaintiff have had upon her.

11 Lisie Monohan (will testify)
12 755 5th Avenue NW C-103
13 Issaquah, WA 98027

14 Lisie is a close family friend of the Lister family and regards Plaintiff as a mother figure.
15 Ms. Monohan will testify regarding Plaintiff's injuries and the impact they have had on Plaintiff.

16 Jaime Fajordo (will testify)
17 755 5th Avenue NW C-103
18 Issaquah, WA 98027

19 Jaime is a family friend and was present at the time Plaintiff fell while standing up from
20 a table and tore her rotator cuff. He is aware of Plaintiff's injuries and the impact they have had
21 on her.

22 Lucy Hwang, MD (will testify)
23 4915 25th Avenue NE, # 300
24 Seattle, WA 98105

25 Dr. Hwang is Plaintiff's primary care physician. Dr. Hwang will testify regarding her
26 knowledge of Plaintiff's pre-injury condition, Plaintiff's injuries, and the impact that Plaintiff's
injuries have had on Plaintiff and Plaintiff's activities of daily living.

1 Roxanne Taggart-Hugo (will testify; testimony may be via deposition)
2 c/o Andrews Skinner
3 645 Elliot Avenue W, Suite 350
4 Seattle, WA 98119

5 Ms. Taggart-Hugo is an employee of Defendant Hyatt and was working at the time of
6 Plaintiff's fall. Ms. Taggart-Hugo will testify regarding her knowledge of the events of the
7 evening of June 15, 2017, the staffing at the Hyatt at the time of Plaintiff's injury, the policies
8 and procedures of the Hyatt as they relate to the lobby area, safety procedures, and spills, and
9 the relationship between Hyatt and Kemper Security. In the event Ms. Taggart-Hugo is
10 unavailable to testify, Plaintiff intends to offer her testimony via deposition pursuant to
11 Fed.R.Civ.P. 32(a)(4)(B).

12 Jaeson Bloom (will testify)
13 c/o Andrews Skinner
14 645 Elliot Avenue W, Suite 350
15 Seattle, WA 98119

16 Mr. Bloom is an employee of Defendant Hyatt and was working at the time of Plaintiff's
17 fall. Mr. Bloom will testify regarding his knowledge of the events of the evening of June 15, 2017,
18 and the policies and procedures of the Hyatt as they relate to the lobby area, safety procedures, and
19 spills.

20 Kyle Crandall (will testify)
21 511 Anderson Lane
22 Cle Elum, WA 98922

23 Mr. Crandall was an employee of Defendant Hyatt's security contractor, Kemper Security,
24 and was on duty at the Bellevue Hyatt on the night of June 15, 2017. Mr. Crandall will testify
25 regarding his knowledge of the events that gave rise to this litigation, and the policies and
26 procedures of Kemper Security and Hyatt.

Alex Dantes (will testify via video perpetuation deposition)
c/o Andrews Skinner
645 Elliot Avenue W, Suite 350
Seattle, WA 98119

Mr. Dantes was the director of operations for Hyatt Bellevue at the time of Plaintiff's fall. Mr. Dantes' testimony was preserved via video perpetuation deposition for trial regarding the facts of this case, the relationship between 13 Coins and Defendant Hyatt, the relationship between Kemper Security and Defendant Hyatt, and Defendant Hyatt's policies and procedures regarding spills. Plaintiff intends to introduce Mr. Dantes' testimony pursuant to Fed. R. Civ. P. 32(a)(4)(B).

Sean Clark (will testify)
c/o Andrews Skinner
645 Elliot Avenue W, Suite 350
Seattle, WA 98119

Mr. Clark is Defendant Hyatt's FRCP 30(b)(6) representative. Mr. Clark will testify regarding Defendant Hyatt's knowledge of Plaintiff's fall, Defendant's defenses, and Defendant's policies and procedures regarding staffing, spills, safety, risks of falls from spills, Defendant's relationship with Kemper Security, the identities of employees in the surveillance video taken in the Hyatt lobby on the evening of June 15, 2017, the staffing of the Hyatt on June 15, 2017, and the manner in which the surveillance video which captured the events of the evening of June 15, 2017 was preserved. Plaintiff intends to introduce Mr. Clark's deposition testimony pursuant to Fed. R. Civ. P. 32(a)(3).

(b) On behalf of the Defendant:

The Defendant reserves the right to call any and all witnesses listed by the Plaintiff above.

Zach Deacon (possible witness only)
c/o Andrews Skinner
645 Elliott Ave. W., Ste. 350

Seattle, WA, 98119

Mr. Deacon is the executive housekeeper at the Defendant's Hyatt Regency Bellevue and will testify regarding the policies and procedures for maintaining the Hyatt's lobby at the time of the incident underlying this lawsuit.

EXHIBITS

In addition to the Exhibits below, Plaintiff intends to have demonstrative evidence at trial in the form of trial boards. Electronic copies of these boards will be provided to Defendant prior to January 13, 2020.

Plaintiff's Exhibits					
Ex. #	Description	Authenticity	Admissibility	Objection	Admitted
1.	Video – Hyatt Front Desk Lobby 2 .83	Stipulated	Disputed	901; F	
2.	Video – Hyatt Front Desk Lobby .83	Stipulated	Disputed	901; F	
3.	Video – 1 before c10 Hyatt Lobby Elevators	Stipulated	Disputed	901; F	
4.	Video – bp c14 Hyatt Lobby .38	Stipulated	Disputed	901; F	
5.	Video – bp c10 Hyatt Lobby Elevators .37	Stipulated	Disputed	901; F	
6.	Video – Narrative Video – Red Forensics	Disputed	Disputed	901; F; BE; 1001; 801-802; H MIL	
7.	Curriculum Vitae of Jerry Hatchett	Disputed	Disputed	901; F; H; 802; MIL	
8.	Still shot taken from Hyatt security video at 23:25	Disputed	Disputed	901; F; 1001; BE	
9.	Still shot taken from Hyatt security video at 23:27:12	Disputed	Disputed	901; F; 1001; BE	
10.	Still shot taken from Hyatt security video at 23:27:17	Disputed	Disputed	901; F; 1001; BE	

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11.	Still shot taken from Hyatt security video at 23:27:20	Disputed	Disputed	901; F; 1001; BE	
12.	Still shot taken from Hyatt Security video at 23:32	Disputed	Disputed	901; F; 1001; BE	
13.	Still shot taken from Hyatt Security video at 23:36	Disputed	Disputed	901; F; 1001; BE	
14.	Still shot taken from Hyatt security video at 23:38:39	Disputed	Disputed	901; F; 1001; BE	
15.	Still shot taken from Hyatt Security video at 23:42	Disputed	Disputed	901; F; 1001; BE	
16.	Still shot taken from Hyatt security video at 23:46:55	Disputed	Disputed	901; F; 1001; BE	
17.	Still shot taken from Hyatt security video at 23:52:44	Disputed	Disputed	901; F; 1001; BE	
18.	Still shot taken from Hyatt security video at 23:53:01	Disputed	Disputed	901; F; 1001; BE	
19.	Still shot taken from Hyatt security video at 23:53:07	Disputed	Disputed	901; F; 1001; BE	
20.	Still shot taken from Hyatt security video at 23:53:50	Disputed	Disputed	901; F; 1001; BE	
21.	Still shot taken from Hyatt Security video at 23:54	Disputed	Disputed	901; F; 1001; BE	
22.	Contusion Photo	Stipulated	Stipulated		
23.	Photo of Shoes	Stipulated	Stipulated		
24.	Incident report created by Kyle Crandall	Stipulated	Disputed	901; F; 801; H	
25.	Email sent by Roxanne Taggart-Hugo	Stipulated	Disputed	901; F; 801-802; H	
26.	Excerpt from Hyatt employee materials – Injury and Illness Prevention	Stipulated	Stipulated		
27.	Excerpt from Hyatt employee materials – Welcome	Stipulated	Stipulated		

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28.	Excerpt from Hyatt employee materials – Our Hotel	Stipulated	Stipulated		
29.	Excerpt from Hyatt employee materials – Culture	Stipulated	Stipulated		
30.	Excerpt from Hyatt employee materials – Departments	Stipulated	Stipulated		
31.	Printout from https://www.hyatt.com/en-US/hotel/washington/hyatt-regency-bellevue-on-seattles-eastside/belle/dining	Disputed	Disputed	901; F; 401-403; R	
32.	Curriculum Vitae of Joellen Gill	Disputed	Disputed	901; F; H; 802; MIL	
33.	Report of Joellen Gill	Disputed	Disputed	901; F; H; 802; MIL	
34.	Curriculum Vitae of Theodore Becker, Ph.D.	Disputed	Disputed	901; F; H; 802; MIL	
35.	Report of Theodore Becker, Ph.D.	Disputed	Disputed	901; F; H; 802; MIL	
36.	Video – Demonstrative Buckle Knee Syndrome	Disputed	Disputed	901; F; H; 802; R; 401-403; MIL	
37.	Video – Buckle Knee Example	Disputed	Disputed	901; F; H; 802; R; 401-403; MIL	
38.	Curriculum Vitae of James Pritchett, MD	Disputed	Disputed	901; F; H; 802; MIL	
39.	Report of James Pritchett, MD	Disputed	Disputed	901; F; H; 802; MIL	
40.	WAC 246.360.030	Disputed	Disputed	C; 403; R; 401; Court instructs jury on the applicable law;	

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41.	Excerpt from UW Medical Records Dated May 10, 2017	Disputed	Disputed	901; F; 801; H	
42.	Excerpt from Overlake Medical Center Records Dated June 16, 2017	Disputed	Disputed	901; F; 801; H	
43.	Excerpt from UW Medical Records Dated October 26, 2017	Disputed	Disputed	901; F; 801; H	
44.					
45.					

Defendant's Exhibits					
Ex. #	Description	Authenticity	Admissibility	Objection	Admitted
A-1	Pictures of the alcove to the restroom area (Figure 2 – S. Reed's Report)	Stipulated	Stipulated	Stipulated	
A-2	Side-by-Side Comparisons of the Surveillance Video and S. Reed's pictures of the incident area (Figure 3 – S. Reed's Report)	Stipulated	Disputed	ER 403	
A-3	Pictures of testing locations (Figure 4 – S. Reed's Report)	Stipulated	Stipulated	Stipulated	
A-4	Slip Testing Results Table (Table 1 – S. Reed's Report)	Stipulated	Stipulated	Stipulated	
A-5	Pictures depicting Plaintiff's path of travel (Figure 5 - S. Reed's Report)	Stipulated	Disputed	ER 403	
A-6	Picture depicting Ms. Lister's view (Figure 6 - S. Reed's Report)	Stipulated	Disputed	ER 403	

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A-7	X-Ray of Plaintiff's Left Hip (July 26, 2017)	Stipulated	Stipulated	Stipulated	
A-8	X-Ray of Plaintiff's Left Hip (Nov. 2, 2017)	Stipulated	Stipulated	Stipulated	
A-9	X-Ray of Plaintiff's Left Shoulder (Aug. 21, 2018)	Stipulated	Stipulated	Stipulated	
A-10	Billing Records from Overlake Hospital Medical Center	Stipulated	Disputed	R ER 401	
A-11	Billing Records from Proliance Surgeons	Stipulated	Disputed	R ER 401	
A-12	Billing Records Puget Sound Physicians	Stipulated	Disputed	R ER 401	
A-13	Billing Records from Proliance Surgeons	Stipulated	Disputed	R ER 401	
A-14	Billing Records from UW Medicine	Stipulated	Disputed	R ER 401	
A-15	Correspondence dated July 6, 2018 from Dr. Thomas Chi to Rebecca Graham	Stipulated	Stipulated		

The Parties' Objection Code:

A	Authentication
BE	Best Evidence Rule
C	Cumulative Evidence
F	Foundation
H	Hearsay
MIL	Subject of Motion in Limine
R	Relevance



1 ANDREWS SKINNER, PS

2
3 s/ Stephen G. Skinner

4 Stephen G. Skinner, WSBA# 17317

5 Alison Markette, WSBA# 46477

6 645 Elliott Ave W Ste 350

7 Seattle, WA 98119-3960

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9 Stephen.Skinner@andrews-skinner.com

10 Alison.Markette@andrews-skinner.com

11 Attorneys for Defendant

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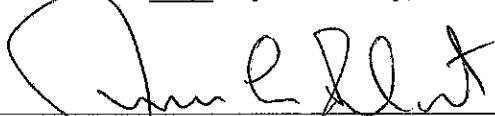
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ACTION BY THE COURT

- (a) This case is scheduled for trial before a jury on Jan. 28, 2020, at 1:00pm.
- (b) Trial briefs shall be submitted to the court on or before Jan. 21, 2020.
- (c) Jury instructions requested by either party shall be submitted to the court on or before Jan. 21, 2020. Suggested questions of either party to be asked of the jury by the court on voir dire shall be submitted to the court on or before Jan. 21, 2020.
- (d) Other Court Rulings: _____

This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by a subsequent order. This order shall not be amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

DATED this 14th day of January, 2020.



 United States District Judge James L. Robart

FORM APPROVED

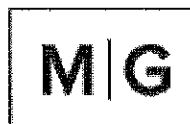
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